

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

GOLDEN UNICORN ENTERPRISES, INC.,
and BIG DOG BOOKS, LLC, *on behalf of
themselves and all those similarly situated,*

Plaintiffs,

v.

AUDIBLE, INC.,

Defendant.

Case No. 1:21-cv-07059-JMF

**ADDENDUM TO THE STIPULATED
CONFIDENTIALITY AGREEMENT AND PROTECTIVE ORDER**

JUDGE JESSE M. FURMAN, United States District Judge:

WHEREAS, all parties to this action entered a Stipulated Confidentiality Agreement and Protective Order, which was entered by this Court on February 16, 2022. *See* Dkt. 44.

WHEREAS, the Stipulated Confidentiality Agreement and Protective Order provides a Producing Party an opportunity to object to the disclosure of material designated Highly Confidential to a proposed expert within seven days of receiving notice from the party requesting to disclose the material. *See* Dkt. 44 ¶ 11.c.

WHEREAS, Defendant Audible, Inc., has designated certain materials it has produced as Confidential and Highly Confidential under the Stipulated Confidentiality Agreement and Protective Order.

WHEREAS, Plaintiffs have engaged a proposed expert, Thad McIlroy, and Plaintiffs seek to show Mr. McIlroy materials that Audible has designated as Confidential and Highly Confidential.

WHEREAS, Audible contends that Mr. McIlroy's receipt of Audible's Confidential and Highly Confidential materials could cause harm to Audible due to risk of use of confidential information in Mr. McIlroy's businesses and potential business activities.

WHEREAS, Audible contends that the Non-Disclosure Agreement in the Stipulated Confidentiality Agreement and Protective Order is not sufficient to prevent this risk of harm.

WHEREAS, Audible timely objected to the disclosure of material designated Highly Confidential to Mr. McIlroy pursuant to section 11.c of the Stipulated Confidentiality Agreement and Protective Order.

WHEREAS, to resolve these concerns, Mr. McIlroy and the Parties agree to the following further protections; and

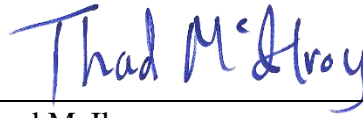
WHEREAS, this Court finds good cause exists for the issuance of an addendum to the Stipulated Confidentiality Agreement and Protective Order to provide Mr. McIlroy with Audible's Confidential and Highly Confidential documents, while protecting Audible from a risk of harm.

IT IS HEREBY ORDERED that Mr. McIlroy will adhere to the following terms, upon pain of contempt:

1. For a period of three years from the date of this order, Mr. McIlroy will not consult for any client (publisher, author, group representing authors, narrator, group representing narrators, agent) in connection with negotiations with Audible;
2. For a period of three years from the date of this order, Mr. McIlroy will not consult for an Audible competitor regarding negotiations related to audiobooks or comparable audio medium with publishers, authors, narrators, or groups representing authors or narrators.
3. These terms do not replace any of the provisions of the Stipulated Confidentiality and Protective Order, which remains in full force and effect.

SO STIPULATED AND AGREED.

Dated: June 15, 2022



Thad McIlroy

LAW OFFICES OF JAMES SCOTT FARRIN

By: /s/ Christopher R. Bagley

Gary W. Jackson (NYC Bar No. 2013779)
Christopher R. Bagley (admitted *pro hac vice*)
280 S. Mangum Street, Suite 400
Durham, NC 27701
Telephone: (919) 226-1913
Facsimile: (984) 227-6962
Email: cbagley@farrin.com

Daniel Bryson
Mitchell Breit
Andrei V. Rado
MILBERG COLEMAN BRYSON PHILLIPS
GROSSMAN, PLLC
100 Garden City Plaza, Suite 500
Garden City, NY 11530
Telephone: (212) 594-530
Facsimile: (212) 868-1229
Email: dbryson@milberg.com
mbreit@milberg.com
arado@milberg.com

*Attorneys for Plaintiffs Golden Unicorn
Enterprises, Inc., and Big Dog Books, LLC*

Dated: June 15, 2022.

FENWICK & WEST LLP

By: /s/ Brian Buckley

Brian Buckley (admitted *pro hac vice*)
Deena J.G. Feit (admitted *pro hac vice*)
Wenbo Zhang (NY Bar No. 5623186)
FENWICK & WEST LLP
1191 Second Avenue, 10th Floor

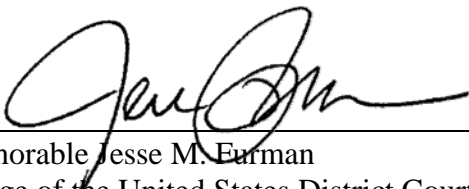
Seattle, WA 98101
Telephone: (206) 389-4510

Jedediah Wakefield (admitted *pro hac vice*)
Kathryn J. Fritz (NY Bar No. 2078483)
Nicholas A. Santos (admitted *pro hac vice*)
555 California Street, 12th Floor
San Francisco, CA 94104
Telephone: (415) 875-2300
Email: jwakefield@fenwick.com
kfritz@fenwick.com
nsantos@fenwick.com

Attorneys for Defendant Audible, Inc.

SO ORDERED.

Dated: June 16, 2022
New York, New York



Honorable Jesse M. Furman
Judge of the United States District Court